

who are not actively engaged in combat. I am not saying they are not bad people or they might have previously been in combat. But the thing is, we have to have a higher standard in our country. We can't have an allegation from the country that says you are an enemy combatant or that you are associated with terrorism. That is an allegation.

If you are e-mailing somebody who is a relative of yours in the Middle East, and they may or may not be a bad person, it doesn't automatically make you guilty; if we label you an enemy combatant and say you are guilty, you don't get your day in court, and that is just not American.

We have many soldiers from my State, from Fort Campbell and Fort Knox, who fight overseas for us. They are fighting for the Bill of Rights. They are fighting for the Constitution. So I consider it to be our duty to stand and fight for something we all believe in, and that is that the protections of the Bill of Rights are yours. When you are accused of something, you get your day in court.

So I am very pleased to have gotten this response back from the Attorney General of the United States. I think that Americans should see this battle that we have had in the last 24 hours as something that is good for the country, and something that should unite Republicans and Democrats in favor of the Bill of Rights.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. WARREN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Madam President, I yield back all time.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of John Owen Brennan, of Virginia, to be Director of the Central Intelligence Agency.

Harry Reid, Dianne Feinstein, John D. Rockefeller IV, Debbie Stabenow, Sherrod Brown, Jack Reed, Benjamin L. Cardin, Thomas R. Carper, Christopher A. Coons, Robert P. Casey, Jr., Mark L. Pryor, Bill Nelson, Mark Begich, Barbara A. Mikulski, Patty Murray, Carl Levin, Joe Manchin III.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination

of John Owen Brennan, of Virginia, to be Director of the Central Intelligence Agency shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Ms. BOXER) and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Louisiana (Mr. VITTER).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 81, nays 16, as follows:

[Rollcall Vote No. 31 Ex.]

YEAS—81

Alexander	Flake	Mikulski
Ayotte	Franken	Murkowski
Baldwin	Gillibrand	Murphy
Baucus	Graham	Murray
Begich	Hagan	Nelson
Bennet	Harkin	Paul
Blumenthal	Hatch	Portman
Blunt	Heinrich	Pryor
Brown	Heitkamp	Reed
Burr	Hirono	Reid
Cantwell	Hoeven	Rockefeller
Cardin	Isakson	Rubio
Carper	Johanns	Sanders
Casey	Johnson (SD)	Schatz
Chambliss	Johnson (WI)	Schumer
Coats	Kaine	Scott
Coburn	King	Shaheen
Collins	Kirk	Stabenow
Coons	Klobuchar	Tester
Corker	Landrieu	Thune
Cornyn	Leahy	Toomey
Cruz	Levin	Udall (CO)
Donnelly	Manchin	Udall (NM)
Durbin	McCain	Warner
Feinstein	McCaskill	Warren
Fischer	Menendez	Whitehouse
	Merkley	Wyden

NAYS—16

Barrasso	Heller	Roberts
Boozman	Inhofe	Sessions
Cochran	Lee	Shelby
Crapo	McConnell	Wicker
Enzi	Moran	
Grassley	Risch	

NOT VOTING—3

Boxer	Lautenberg	Vitter
-------	------------	--------

The PRESIDING OFFICER. On this vote the yeas are 81 and the nays are 16. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The PRESIDING OFFICER. Under the previous order, the question is on confirmation of the Brennan nomination.

Mrs. FEINSTEIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of John Owen Brennan, of Virginia, to be Director of the Central Intelligence Agency?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER)

and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Louisiana (Mr. VITTER).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 63, nays 34, as follows:

[Rollcall Vote No. 32 Ex.]

YEAS—63

Alexander	Flake	Mikulski
Baldwin	Franken	Murkowski
Baucus	Gillibrand	Murphy
Begich	Graham	Murray
Bennet	Hagan	Nelson
Blumenthal	Harkin	Pryor
Brown	Hatch	Reed
Burr	Heinrich	Reid
Cantwell	Heitkamp	Rockefeller
Cardin	Hirono	Rubio
Carper	Johnson (SD)	Schatz
Casey	Kaine	Schumer
Coats	King	Shaheen
Coburn	Kirk	Stabenow
Collins	Klobuchar	Tester
Coons	Landrieu	Udall (CO)
Corker	Levin	Udall (NM)
Cowan	Manchin	Warner
Donnelly	McCain	Warren
Durbin	McCaskill	Whitehouse
Feinstein	Menendez	Wyden

NAYS—34

Ayotte	Heller	Portman
Barrasso	Hoeven	Risch
Blunt	Inhofe	Roberts
Boozman	Isakson	Sanders
Chambliss	Johanns	Scott
Cochran	Johnson (WI)	Sessions
Cornyn	Leahy	Shelby
Crapo	Lee	Thune
Cruz	McConnell	Toomey
Enzi	Merkley	Wicker
Fischer	Moran	
Grassley	Paul	

NOT VOTING—3

Boxer	Lautenberg	Vitter
-------	------------	--------

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table. The President will be immediately notified of the Senate's action.

VOTE EXPLANATIONS

• Mrs. BOXER. Madam President, I was unavoidably absent from the votes related to the nomination of John Brennan to be Director of the Central Intelligence Agency. Had I been present, I would have voted yea on the motion to invoke cloture and yea on the nomination.●

• Mr. VITTER. Madam President, I could not participate in the nomination of John Brennan to be Director of the CIA because of a family obligation in Louisiana.

I strongly support Senator PAUL's filibuster, oppose the use of drones in this country, and oppose both cloture and the confirmation of John Brennan.●

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

MORNING BUSINESS

Mrs. MURRAY. Madam President, I ask unanimous consent that the Senate proceed to a period of morning

business until 6 p.m., with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WHITEHOUSE. I ask unanimous consent to speak for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLIMATE CHANGE

Mr. WHITEHOUSE. I am back to again urge my colleagues to wake up to the stark reality of climate change. We often hear in this Chamber colleagues extolling the virtues of the marketplace. Indeed, a fair and open marketplace is the cornerstone of our economy. Markets work—not perfectly always but better than any other mechanism.

Paraphrasing Winston Churchill, one might say that markets are the worst form of setting prices and exchanging goods, except all of the other methods that have been tried. But markets only work when they are fair. Markets are not fair if the price of goods does not take all the costs into account.

A grocery store, for instance, has to pay to have its garbage removed. It has to build that garbage removal into its prices. And that is the right thing. That is the market working. If that grocery store can recycle or compact or composite its trash and make removal cheaper and lower its prices, then that is right too. That is the market working. But if a second grocery store down the street breaks the law and throws its garbage into the park next door and then competes with lower prices, that is not a market in proper operation. That is not a fair market. That is just one person cheating another.

If a factory makes a product and treats its waste, that is part of its cost. That is good. That is how it is supposed to be. If the factory can figure out how to treat its waste more efficiently and lower prices, terrific. That is also the market at work. But a factory down the river that breaks the law by dumping its waste into the river may have better prices as a result, but that is not a fair market.

The value of open and fair markets is lost when people cheat, when they offload their costs onto the general public. The garbage in the park, the waste in the river—the grocery store down the street and the factory down the river—does not reduce costs; businesses just offloaded them onto their neighbor, onto the rest of us. They may ac-

tually have even made it more costly for everyone, but they have managed to impose that cost on the public.

There is even a word for these offloaded costs. They are externalities, the harms that are caused that are external to the company. This is not complicated. It is econ 101. It is also law 101.

Seventy years ago a soda bottle exploded and injured the hand of a waitress named Gladys Escola. Ms. Escola sued the bottler. The court decision has been in most every law student's first-year classes ever since.

In a famous concurrence, Justice Traynor ruled in the case of *Escola v. Coca-Cola Bottling Company* that the cost of Ms. Escola's injury should fall on the bottler. His logic was simple and clear: They made the bottle. If they did not have to pay for the injuries exploding bottles caused, they would just keep making exploding bottles. If you made them responsible for the exploding bottles they made, they would have a big incentive to improve their bottles and everyone would be safer.

As Judge Traynor said 70 years ago, "Public policy demands that responsibility be fixed wherever it will most effectively reduce the hazards."

This idea that you shouldn't be able to offload your costs and have the park, the river, or Ms. Escola's hand pay the price is not new, and it is not unusual. Frankly, we see it in our own lives. It is also fairness 101, as well as econ 101 and law 101. You may not rake your lawn and throw the leaves over the fence into your neighbor's yard. The principle is the same—they are your leaves, and you clean them up.

What do soda bottles and yard work have to do with climate change? The very same principle applies. We now know how much harm carbon pollution is causing. We see the costs all around us in storm-damaged homes, flooded cities, in drought-stricken farms, raging wildfires, in dying coral and disappearing fish, in shifting habitats and migrating diseases, in changed seasons and rising seas, in vanishing glaciers and melting icecaps. These are costs. In some cases they are economic costs. People lose money. The owner of a ski lodge, for example, loses money when the ski season gets shorter and shorter. In some cases they are personal costs, such as not being able to take your granddaughter to the stream near where you grew up because it is dried up or the beach island you used to explore as a kid because it is underwater. In some cases the cost is life-and-death. Powerful storms and severe heat waves take a deadly toll. These are real costs, and they come as a result of carbon pollution.

These costs, however, are not factored into the price of the coal or oil that is burned to release the carbon. The big oil companies and the coal barons have offloaded those costs onto society.

There is nothing inherently wrong with producing energy. There is nothing

inherently wrong with bottling soda or running a grocery store. What is wrong is when you knowingly pass on the cost of your exploding bottle, your waste disposal, or your carbon pollution to everybody else.

Oil and coal companies have been sending carbon pollution into the atmosphere since the Industrial Revolution. When these industries started, the risks were poorly understood. Today they know better. They know what the harm is that they are doing, and they continue. When they lie and pretend those costs aren't out there—leaves? What leaves? There is no garbage in the park. Your hand is just fine, Mrs. Escola—and when they pay people to lie and pretend those costs aren't out there, well, that is all just flat wrong. And when they do it with fat campaign contributions, slick lobbyists, and marauding super PACs, that makes it worse. That is dirty pool. It is a market failure. It takes unfair advantage of competing energy sources that don't pollute so much, and it makes the competition between them unfair. The big oil companies and the coal barons are no different than the grocery store dumping its garbage in the park or the factory spilling its waste into the river. They are not bearing the costs of their product, and they are cheating on their competitors. There is a right way to do it. They figured out how to do it the wrong way and have other people pick up the tab.

When it comes to carbon pollution, economists can estimate the true cost of dirty energy. It is often called the "social cost of carbon." The social cost of carbon includes the financial consequences of a change in climate, such as property loss, increased health care costs, and loss of productivity that come with heat waves, drought, heavy rains, sea-level rise, habitat shifts, ocean warming, and acidification.

We recently learned from NOAA that their scientists predict that worldwide, the average summertime loss in labor capacity will double by 2050, as the climate warms and periods of extreme heat become more frequent and more intense, affecting labor-intensive outdoor work such as construction and farming. That is a social cost of carbon.

Of course, certain costs can be hard to predict. How do you calculate the cost of an extinct species? What does it cost to leave to our children and grandchildren warmer, more acidic, less biodiverse oceans? These calculations may not always be perfect, but that doesn't make the costs any less real. For instance, in my home State of Rhode Island, the costs to our fishermen of these changes is very real.

In the final tally, economists tell us that big carbon emitters are unloading a big cost onto the public and onto future generations. On average, estimates of the social cost of carbon are about \$48 per ton of carbon dioxide—\$48 per ton that these big businesses dodge and that we all pay for.